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S. 1417

To assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 1995

Mr. DORGAN (for himself, Mr. BYRD, Mr. HEFLIN, and Mr. CAMPBELL) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To assess the impact of the NAFTA, to require further negotiation of certain provisions of the NAFTA, and to provide for the withdrawal from the NAFTA unless certain conditions are met.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “NAFTA Accountability
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress makes the following findings:

1 (1) EXPANDED MARKETS.—One of the purposes
2 of the NAFTA, as stated in the preamble, is to “cre-
3 ate an expanded and secure market” for goods and
4 services. Instead, the NAFTA has resulted in a spi-
5 raling trade deficit with Mexico and Canada that
6 will exceed \$30,000,000,000 in 1995. Rather than
7 harmonious development and expansion as envi-
8 sioned, the NAFTA has resulted in trade deficits
9 which are draining \$2,500,000,000 a month from
10 the United States economy.

11 (2) CURRENCY STABILITY.—One of the pur-
12 poses of the NAFTA is to “ensure a predictable
13 commercial framework for business planning and in-
14 vestment”. However, the NAFTA contains no safe-
15 guards to minimize the negative economic impacts of
16 severe shifts in currency exchange rates among the
17 NAFTA Parties. To protect its own economy the
18 United States has sought to bolster the Mexican
19 peso which is now being supported by
20 \$30,000,000,000 in loans, mostly from unwilling
21 United States taxpayers. The devaluation of the
22 Mexican peso has more than offset tariff reductions
23 and other trade benefits the United States expected
24 to achieve from the agreement.

1 (3) FAIR AGRICULTURAL TRADE.—One of the
2 purposes of the NAFTA is to reduce distortions to
3 trade. In addition, the NAFTA is supposed to pro-
4 mote conditions of fair competition and to establish
5 mutually advantageous rules governing trade. How-
6 ever, since the NAFTA, there has been a rapid esca-
7 lation of one-way trade of Canadian grain exports of
8 wheat, durum wheat, and barley to the United
9 States, disrupting markets and marketing channels.
10 Surges in the importation of certain Mexican fruits
11 and vegetables threaten domestic production and the
12 importation of livestock and meat products from the
13 NAFTA Parties has exacerbated the severe problems
14 facing United States livestock producers.

15 (4) JOBS, WAGES, AND LIVING STANDARDS.—
16 One of the purposes of the NAFTA is to “create
17 new employment opportunities and improve working
18 conditions and living standards” in the respective
19 territories of the NAFTA Parties. Instead, there has
20 been a substantial loss of over 300,000 high-paying
21 jobs in the United States. A survey of United States
22 companies conducted 20 months after the implemen-
23 tation of the NAFTA found that 90 percent of the
24 companies that had anticipated an increased number
25 of jobs from the NAFTA have, in fact, not increased

1 employment since the NAFTA was implemented. In
2 the first year of the NAFTA's implementation, Unit-
3 ed States workers had the sharpest drop of real
4 hourly wages on record. More than 2,000,000 work-
5 ers have become unemployed in Mexico since the im-
6 plementation of the NAFTA and real wages of Mexi-
7 can workers have been slashed 50 percent. In addi-
8 tion to the loss of purchasing power, there has been
9 an erosion in the standards of living in the United
10 States, Canada, and Mexico.

11 (5) MANUFACTURING BASE.—One of the pur-
12 poses of the NAFTA is to enhance the competitive-
13 ness of firms in the global market. However, rather
14 than increase the ability of the manufacturing sector
15 in the United States to compete in the world mar-
16 ket, the NAFTA has facilitated the movement of
17 United States manufacturing facilities and jobs to
18 Mexico. The NAFTA has contributed to a net loss
19 of 227,000 manufacturing jobs in the United States
20 during the last 7 months and an unprecedented
21 flood of imports of manufactured goods into the
22 United States.

23 (6) HEALTH AND ENVIRONMENT.—Other pur-
24 poses of the NAFTA are “to safeguard the public
25 welfare” and “to strengthen the development and

1 enforcement of environmental laws and regulations”.
2 Yet, since the implementation of the NAFTA, the
3 public welfare has been undermined by increased im-
4 ports of food products that do not meet United
5 States health standards. In addition, the NAFTA
6 has accelerated the relocation of United States man-
7 ufacturing facilities to the United States-Mexico bor-
8 der zone, where hundreds of new manufacturing
9 plants have been added. Without adequate environ-
10 mental safeguards, the uncontrolled industrial and
11 population growth in the border zone has aggravated
12 pollution and health hazards, increasing the inci-
13 dence of infectious diseases and human exposure to
14 toxins.

15 (7) ILLEGAL DRUGS.—Rather than safeguard-
16 ing the public welfare, the NAFTA has allowed the
17 increased flow of illegal drugs and controlled sub-
18 stances into the United States from Mexico. More
19 than half of all cocaine and marijuana illegally en-
20 tering the United States now comes through Mexico,
21 with an increasing portion carried by trucks which
22 undergo more limited inspection under the NAFTA.

23 (8) PROTECT RIGHTS.—The promotion of sus-
24 tainable development as well as the protection and
25 enhancement of basic rights are stated objectives of

1 the NAFTA. As envisioned, the NAFTA is to in-
2 crease economic opportunity together with expansion
3 of political freedoms and human rights. Yet these
4 objectives are not being fulfilled, especially in Mex-
5 ico, where some citizens continue to experience in-
6 fringements of such rights and freedoms.

7 (9) NAFTA SHOULD NOT BE EXPANDED.—The
8 Congress approved the NAFTA in order to achieve
9 economic, social, and environmental benefits for the
10 people of the United States. Based on currently
11 available information, the goals and objectives of the
12 NAFTA are not being achieved. Therefore, the
13 NAFTA should not be expanded to include any
14 other country.

15 (10) NAFTA TO BE RENEGOTIATED AND BEN-
16 EFITS CERTIFIED.—Based on the experience with
17 the NAFTA since its implementation, it has become
18 evident that further negotiation is required to re-
19 solve fundamental inadequacies within the NAFTA
20 with respect to trade balances, currency differentials,
21 and agricultural provisions. If the NAFTA is to con-
22 tinue, responsible public officials must be able to
23 certify specific measures of economic, social, and en-
24 vironmental progress. Otherwise Congress has no
25 choice but to withdraw its approval of the NAFTA.

1 **SEC. 3. CONDITIONS FOR CONTINUED PARTICIPATION IN**
2 **THE NAFTA.**

3 (a) IN GENERAL.—

4 (1) WITHDRAWAL OF APPROVAL.—Notwith-
5 standing any other provision of law, unless each of
6 the conditions described in paragraph (2) is met—

7 (A) the approval of the NAFTA by the
8 Congress provided for in section 101(a) of the
9 North American Free Trade Agreement Imple-
10 mentation Act shall cease to be effective on Oc-
11 tober 1, 1997, and

12 (B) not later than April 1, 1997, the
13 President shall provide written notice of with-
14 drawal to the Governments of Canada and Mex-
15 ico in accordance with Article 2205 of the
16 NAFTA.

17 (2) CONDITIONS FOR CONTINUING PARTICIPA-
18 TION IN NAFTA.—The conditions described in this
19 paragraph are that before December 31, 1996—

20 (A) the President—

21 (i) renegotiate the terms of the
22 NAFTA in accordance with paragraphs
23 (1), (2), and (3) of subsection (b), and

24 (ii) provide the certification to the
25 Congress described in subsection (b)(8),

1 (B) the Secretary of Labor provide the cer-
 2 tification described in subsection (b)(4),

3 (C) the Secretary of Commerce provide the
 4 certification described in subsection (b)(5),

5 (D) the Secretary of Agriculture and the
 6 Administrator of the Food and Drug Adminis-
 7 tration provide the certification described in
 8 subsection (b)(6)(A),

9 (E) the Administrator of the Environ-
 10 mental Protection Agency submit the certifi-
 11 cation and report described in subsection
 12 (b)(6)(B), and

13 (F) the Attorney General of the United
 14 States provide the certification described in
 15 subsection (b)(7).

16 (b) AREAS OF RENEGOTIATION AND CERTIFI-
 17 CATION.—The areas of renegotiation and certification de-
 18 scribed in this subsection are as follows:

19 (1) RENEGOTIATE THE NAFTA TO CORRECT
 20 TRADE DEFICITS.—The President is authorized and
 21 directed to confer with the Governments of Canada
 22 and Mexico and to renegotiate the terms of the
 23 NAFTA to provide for implementation of emergency
 24 adjustments of tariffs, quotas, and other measures
 25 to stabilize the flow of trade among the NAFTA

1 Parties when the United States has an annual defi-
2 cit in trade of goods and services with another
3 NAFTA Party that exceeds 10 percent of United
4 States exports to that Party.

5 (2) RENEGOTIATE THE NAFTA TO CORRECT
6 CURRENCY DISTORTIONS.—The President is author-
7 ized and directed to confer with the Governments of
8 Canada and Mexico and to renegotiate the terms of
9 the NAFTA to provide for the implementation of
10 emergency adjustments of tariffs, quotas, and other
11 measures to mitigate the adverse effects of rapid or
12 substantial changes in exchange rates between the
13 United States dollar and the currency of another
14 NAFTA Party.

15 (3) RENEGOTIATE THE NAFTA TO CORRECT AG-
16 RICULTURAL PROVISIONS.—The President is author-
17 ized and directed to confer with the Governments of
18 Canada and Mexico and to renegotiate the terms of
19 the NAFTA to provide for the implementation of
20 emergency tariffs, quotas, and other measures to
21 bring the levels of wheat, durum wheat, and barley
22 imported from Canada to levels that are comparable
23 to the levels of these products imported during the
24 10-year period before the date the NAFTA entered
25 into force with respect to the United States. The

1 President is further authorized and directed to re-
2 negotiate the NAFTA to establish and strengthen
3 provisions to prevent imports of agricultural com-
4 modities from any NAFTA Party from unfairly dis-
5 placing United States production and to provide im-
6 proved mechanisms for relief for United States pro-
7 ducers that are adversely impacted by such imports.

8 (4) CERTIFICATION OF GAINS IN UNITED
9 STATES JOBS AND LIVING STANDARDS.—If the Sec-
10 retary of Labor, after consultation with appropriate
11 government agencies and citizen organizations, de-
12 termines that—

13 (A) the number of jobs resulting from in-
14 creased exports of United States manufactured
15 goods to other NAFTA Parties exceeds the
16 number of jobs lost because of imports of man-
17 ufactured goods from other NAFTA Parties
18 since January 1, 1994, and

19 (B) the purchasing power of wage-earners
20 in the United States has increased since Janu-
21 ary 1, 1994,

22 the Secretary shall so certify to the Congress.

23 (5) CERTIFICATION OF INCREASED DOMESTIC
24 MANUFACTURING.—If the Secretary of Commerce,
25 after consultation with the appropriate government

1 agencies and citizen organizations, determines that
2 the export of United States manufactured goods to
3 the NAFTA Parties exceeds the imports of manufac-
4 tured goods from NAFTA Parties, the Secretary
5 shall so certify to the Congress. In making the de-
6 termination, the Secretary shall not include any
7 goods originating outside the United States that are
8 exported to another NAFTA Party, nor imports
9 from another NAFTA Party that are destined for
10 other countries.

11 (6) CERTIFICATION RELATING TO HEALTH AND
12 ENVIRONMENTAL STANDARDS.—

13 (A) IN GENERAL.—If the Secretary of Ag-
14 riculture and the Administrator of the Food
15 and Drug Administration, after consultation
16 with appropriate government agencies and citi-
17 zen organizations, determine, with respect to
18 imports from NAFTA Parties, that since Janu-
19 ary 1, 1994, there has been a reduced incidence
20 of contaminated and adulterated food, food con-
21 taining additives or pesticide residues exceeding
22 United States standards, or food containing ad-
23 ditives or pesticide residues which cannot be le-
24 gally used in the United States, the Secretary
25 and Administrator shall so certify to the Con-

1 gress. In making this determination, all foods
2 and food products, including fruits, vegetables,
3 grains, oilseeds, and meats, both fresh and
4 processed, shall be reviewed. Special attention
5 shall be given to foods which have had a history
6 of violations.

7 (B) BORDER AREA POLLUTION.—If the
8 Administrator of the Environmental Protection
9 Agency determines that conditions affecting
10 public health in the United States-Mexico bor-
11 der zone have not worsened since January 1,
12 1994, the Administrator shall so certify to the
13 Congress. In addition, the Administrator, in
14 consultation with the Secretariat for the
15 NAFTA Commission on Environmental Co-
16 operation, shall report to the Congress on the
17 outcomes of the Administration's investigations
18 on pollution and health hazards in and around
19 the United States-Mexico border zone since the
20 implementation of the NAFTA. The report
21 shall include—

22 (i) a description and status report of
23 all industrial site cleanup and environ-
24 mental improvement projects begun in the
25 border zone since January 1, 1994;

(ii) information available from local, State, and Federal health agencies reflecting the incidence since January 1, 1990, in and around the border zone of hepatitis, neural stem birth defects, lupus, chronic adolescent diarrhea, tuberculosis, nonneural birth defects, cholera, botulism, and other disorders commonly related to industrial pollution, inadequate infrastructures, and hazardous waste; and

(iii) information on the incidence of air and water pollution since January 1, 1990, and the causes, levels, and types of pollution which have occurred.

(7) CERTIFICATION RELATING TO ILLEGAL DRUGS.—If the Attorney General of the United States determines, after a review by the Drug Enforcement Administration and consultation with appropriate government agencies and citizen organizations, that increased imports from the NAFTA Parties are not resulting in an increase in illegal drugs or other controlled substances from Mexico or Canada, the Attorney General shall so certify to the Congress. The Attorney General through the Drug Enforcement Administration shall conduct a thor-

1 ough review and report to the Congress regarding
2 the flow of illegal drugs from Mexico and Canada
3 and the relationship of such flow to trade of other
4 commodities and services with the NAFTA Parties.

5 (8) CERTIFICATION RELATING TO DEMOCRACY
6 AND HUMAN FREEDOMS.—If the President, after
7 consultation with appropriate government agencies,
8 international organizations, and citizen organiza-
9 tions, determines that the Government of Mexico—

10 (A) is elected in free and fair elections,

11 (B) protects the rights of its citizens to or-
12 ganize into political parties,

13 (C) protects the rights of its citizens to
14 free speech and the right of the news media to
15 operate without fear of government control or
16 reprisal, and

17 (D) protects the rights of its citizens to as-
18 semble and to organize associations to advance
19 human rights and economic opportunities,

20 the President shall so certify to the Congress.

21 **SEC. 4. CONSULTATION WITH CONGRESS.**

22 The President shall consult regularly with the Con-
23 gress regarding the negotiations described in section 3(b)
24 (1), (2), and (3). The United States Trade Representative
25 shall consult with the appropriate committees of Congress

1 in the development of any technical and conforming
 2 amendments that may be required to carry out the provi-
 3 sions of this Act.

4 **SEC. 5. NO EXPANSION OF NAFTA.**

5 Until such time as the conditions described in section
 6 3(b) are met, it is the sense of the Congress that the Presi-
 7 dent should not engage in negotiations to expand the
 8 NAFTA to include other countries and that fast-track au-
 9 thority should not be renewed with respect to the approval
 10 of any such expansion of the NAFTA.

11 **SEC. 6. DEFINITIONS.**

12 As used in this Act:

13 (1) NAFTA.—The term “NAFTA” means the
 14 North American Free Trade Agreement entered into
 15 between the United States, Canada, and Mexico on
 16 December 17, 1992.

17 (2) NAFTA PARTY.—The term “NAFTA
 18 Party” means the United States, Canada, or Mexico.

19 (3) UNITED STATES-MEXICO BORDER ZONE.—
 20 The term “United States-Mexico border zone”
 21 means the area that comprises the 12-mile zone on
 22 the Mexican side of the United States-Mexico border
 23 and the counties within any State of the United
 24 States that are contiguous with Mexico.

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